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PATENT
ATTORNEY DOCKET NO. 056848-5003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Christopher C.N. Callow)	Confirmation No.: 8867
)	
Application No.: 09/870,135)	Group Art Unit: 3724
)	
Filed: May 30, 2001)	Examiner: C. Dexter
)	
For: A CUTTING MACHINE FOR BRICK MAKING)	Mail Stop Petition

Commissioner for Patents
U.S. Patent and Trademark Office
Mail Stop Petition
Alexandria, VA 22314

Sir:

**PETITION UNDER 37 C.F.R. § 1.181(a) and MPEP § 711.03(c)(I)
TO WITHDRAW ERRONEOUS HOLDING OF ABANDONMENT**

This is a petition under 37 C.F.R. § 1.181(a) and MPEP § 711.03(c)(I), first paragraph, that the supervisory authority of the Commissioner be invoked to withdraw the Notice of Abandonment mailed February 24, 2006, which Applicants respectfully submit was issued in error. In addition, Applicants respectfully request examination of the timely filed Amendment.

On January 14, 2004, the U.S. Patent and Trademark Office mailed a Non-Final Office Action. However, on April 12, 2004, Applicants filed an Amendment with no extension of time required. (See Exhibit A.) To evidence the filing on April 12, 2004, a copy of the *Response* with a copy of the stamped postcard receipt bearing the filing date of April 12, 2004 is also attached thereto in Exhibit A. Additionally, the Patent Application Information Retrieval (PAIR)

Transaction History indicates a “Workflow incoming amendment IFW document” on April 12, 2004. (See Exhibit B.) Further, a copy of the Amendment was faxed on September 7, 2004 to the Group 3700 Fax Number since Examiner Dexter had not received a copy of the Amendment. (See Exhibit C.) Nonetheless, on February 24, 2006, the U.S. Patent and Trademark Office mailed a Notice of Abandonment which was received by Applicants’ representatives on February 28, 2006.

Since an Amendment was filed as evidenced by the copy of the stamped postcard receipt as well as the PAIR indication of an incoming amendment on April 12, 2004, Applicants respectfully submit that the Amendment was timely. As a result, Applicants respectfully submit that the Notice of Abandonment is in error.

Conclusions

In view of the foregoing, Applicants respectfully request that the Notice of Abandonment be withdrawn. Moreover, Applicants respectfully request examination of the application.

Applicants are filing this petition within two (2) months of receipt of the Notice of Abandonment of February 24, 2006. Thus, Applicants also respectfully submit that the filing of this petition is timely.

Applicants respectfully submit that no fees are due with the filing of this petition. However, if there are any other fees due in connection with the filing of this petition, please charge the fees to our Deposit Account No. 50-0310.

If a fee is required for an extension of time under 37 C.F.R. § 1.136 and not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Dated: March 10, 2006

By:



Robert J. Goodell

Reg. No. 41,040

Customer No.: 009629

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Facsimile: 202.739.3001

EXHIBIT A



PLEASE STAMP AND RETURN TO SHOW RECEIPT OF:

In re application of: Christopher C.N. CALLOW

Confirmation No.: 8867

Application No.: 09/870,135

Group Art Unit: 3724

Filed: May 30, 2001

Examiner: C. Dexter

For: A CUTTING MACHINE FOR BRICK MAKING

1. Amendment Transmittal Form
2. Amendment

Dated: April 12, 2004

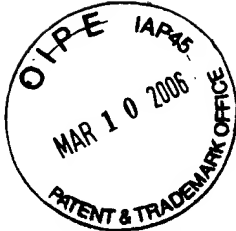
Attorney Docket No.: 056848-5003

VDH/efc



DOCKETED

By BB Date 4/30/04



PATENT
ATTORNEY DOCKET NO.: 056848-5003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Christopher C.N. CALLOW)	Confirmation No.: 8867
Application No.: 09/870,135)	Group Art Unit: 3724
Filed: May 30, 2001)	Examiner: C. Dexter
For: A CUTTING MACHINE FOR BRICK MAKING)	

Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Non-Fee Amendment
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Sir:

AMENDMENT TRANSMITTAL FORM

- Transmitted herewith is an Amendment in response to the Office Action dated January 14, 2004 (Paper No. 21).
- Additional papers enclosed:
 - ☐ Information Disclosure Statement
 - ☐ Form PTO-1449, _____ references included
 - ☐ Citations
 - ☐ Declaration of Biological Deposit
 - ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

- ☒ Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.
- ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 420.00	\$ 210.00
<input type="checkbox"/> three months	\$ 950.00	\$ 475.00
<input type="checkbox"/> four months	\$ 1,480.00	\$ 740.00

Extension of time fee due with this request: \$_____.

If an additional extension of time is required, please consider this a Petition therefor.

- ☐ An extension for _____ months has already been secured and the fee paid therefor of \$_____ is deducted from the total fee due for the total months of extension now requested.

4. Constructive Petition

- ☒ EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. §1.16)

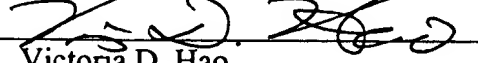
CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	6	minus	20	0	x \$18 each=	+ \$0.00
Independent Claims (37 C.F.R. §1.16(b))	1	minus	3	0	x \$86 each=	+ \$0.00
[] First presentation of Multiple dependent claim(s)					\$290.00	+ \$0.00
SUB-TOTAL =						\$0.00
Reduction by ½ for filing by a small entity						- \$0.00
TOTAL FEE =						\$0.00

6. Fee Payment

- ☒ No fee is to be paid at this time.
- ☐ Please charge Deposit Account No. 50-0310 the amount of \$_____ for the extension of time fee or fee for claims.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,
MORGAN, LEWIS & BOCKIUS LLP

Dated: April 12, 2004

By: 
 Victoria D. Hao
 Reg. No. 47,630

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